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|----------------------------|-------------|----------------------|---------------------|------------------|
| APPLICATION NO.            | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
| 10/045,093                 | 01/15/2002  | Susumu Takeuchi      | 837,1978            | 1243             |
| 21171                      | 7590        | 04/15/2008           |                     |                  |
| STAAS & HALSEY LLP         |             |                      | EXAMINER            |                  |
| SUITE 700                  |             |                      | BELLO, AGUSTIN      |                  |
| 1201 NEW YORK AVENUE, N.W. |             |                      |                     |                  |
| WASHINGTON, DC 20005       |             |                      | ART UNIT            | PAPER NUMBER     |
|                            |             |                      | 2613                |                  |
|                            |             |                      |                     |                  |
|                            |             |                      | MAIL DATE           | DELIVERY MODE    |
|                            |             |                      | 04/15/2008          | PAPER            |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

|                              |                                      |  |
|------------------------------|--------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/045,093 | <b>Applicant(s)</b><br>TAKEUCHI ET AL. |
|                              | <b>Examiner</b><br>Agustin Bello     | <b>Art Unit</b><br>2613                |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed if the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If the period for reply specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 28 March 2008.  
 2a) This action is FINAL.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-21 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) 1-3,8-13,18 and 20 is/are allowed.  
 6) Claim(s) 21 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-548)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____   |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 03/28/08 has been entered.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claim 21 is rejected under 35 U.S.C. 102(e) as being anticipated by Fatehi (U.S. Patent No. 6,600,581).

Regarding claim 21, Fatehi teaches a demultiplexing unit (inherent in the ability to cross-connect on a per-wavelength basis of column 5 lines 35-46) demultiplexing the wavelength-division-multiplexed signal into each of said plurality of wavelength components having an identifier (i.e. tag throughout) stored in a predetermined position in each of said plurality of wavelength components and outputting said wavelength components to output terminals; a plurality of extraction units (reference numeral 211 in Figure 2) extracting an identifier (e.g. "tag" throughout) stored in a predetermined position in each of the plurality of wavelength

components; a plurality of determination units (reference numeral 620 in Figure 6; a plurality of which are formed in elements 211 of Figure 2 collectively) determining whether or not said identifier stored in the predetermined position in each of the plurality of wavelengths components is normal; and a plurality of extraction judgment units (reference numerals 625, 630, 635, 640 in Figure 6) judging whether or not each of the plurality of wavelength components in an optical signal is down and whether said identifier is abnormal for each of said wavelength components, based on a detection result output by the determination unit associated with each of the wavelength components (reference numeral 620 in Figure 6), wherein each identifier identifies a channel associated with each of the wavelength components and is uniquely determined by the channel (as indicated in Figures 3A-3C, Figure 4).

***Allowable Subject Matter***

4. Claims 1-3, 8-13, 18, and 20 are allowed. The applicant is reminded that claims 4-7, 14-17, and 19 remain pending in the case, but are withdrawn as being directed to a non-elected invention.

***Response to Arguments***

5. Applicant's arguments filed 03/28/08 have been fully considered but they are not persuasive. As noted above, the examiner maintains that the cited prior art to Fatehi continues to meet the limitations of the claimed invention. Furthermore, as to applicant's argument that Fatehi fails to specifically teach that the identifier is "stored" in the optical signal, the examiner notes that Fatehi's tags are clearly carried by the optical signals, and are thereby kept for a certain period of time for future use. As such, Fatehi's tags are clearly stored on the optical signal when the term "stored" is given the broadest reasonable interpretation..

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Agustin Bello whose telephone number is (571) 272-3026. The examiner can normally be reached on M-F 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan can be reached on (571)272-3022. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Agustin Bello/  
Primary Examiner, Art Unit 2613